

ARGUMENT

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In Central America, Rule of Law Is Under Attack. El Salvador Is the Latest Victim.

El Salvador's populist president is following the playbook of corrupt elites in Guatemala, Nicaragua, and Honduras when it comes to top courts.

By [Will Freeman](#), a doctoral candidate in politics at Princeton University and a Central America research fellow at the Washington Office on Latin America, and [Adriana Beltrán](#), the director of the Citizen Security Program at the Washington Office on Latin America.

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In February, El Salvador's president, Nayib Bukele, [led](#) his political party, Nuevas Ideas ("New Ideas"), to victory in legislative elections. The landslide results raised alarm that he would use his control of the legislature to tighten his grip on power. But almost no one expected it to happen this quickly or dramatically.

On May 1, his party's supermajority in the Legislative Assembly [purged](#) critics from the country's top court and the attorney general's office, swiftly replacing them with allies. The power grab resulted in an international outcry, not least from the Biden administration, which harshly condemned the move. Unfortunately, tough rhetoric will not be enough to stop attacks on the rule of law in Central America—of which Bukele's power grab is just the latest example.

Bukele's latest assault on democracy started on the first day of the new legislative session, when 64 of the 84 legislators in the Legislative Assembly, including all members of the ruling party, voted to remove all five judges from the Supreme Court's Constitutional Chamber, arguing that their rulings had obstructed Bukele's handling of the COVID-19 pandemic. In fact, the Constitutional Chamber had recently [questioned](#) the legality of Bukele's heavy-handed enforcement of El Salvador's strict COVID-19 lockdown, which Human Rights Watch [linked](#) to human rights abuses. Four of the five judges had six remaining years to serve on the court.

The vote violated national and international norms and gave the ousted judges no opportunity to defend themselves. By Thursday, four of the five judges had handed in their resignations.

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Legislators also ousted Attorney General Raúl Melara. Bukele had previously lauded Melara for his investigations of the two traditional political parties, including Bukele's main opposition, but recently the two experienced a falling out after Melara spearheaded [investigations](#) into COVID-related corruption and alleged negotiations between Bukele and MS-13 gang leaders. Bukele's allies in the Legislative Assembly argued that Melara was in violation of a Salvadoran law that says the attorney general must not affiliate with a political party—Melara had been close to the pro-business ARENA party and had [advised](#) its presidential candidate. But he was elected almost unanimously by the previous legislature, with the support of nearly every party, including the party Bukele used to launch his presidential bid in 2019. Meanwhile, the new attorney general, Rodolfo Delgado, has [close ties](#) to Bukele's security minister, as well as the founder of the GANA party, a congressional ally of Bukele. The choice of replacement was more than a bit ironic, given the official argument that the old attorney general deserved to be removed for being too partisan.

The new nominees to fill the bench and the attorney general's office have close links with Bukele or are linked to corruption scandals of their own making. The new president of the Constitutional Chamber, Óscar López Jerez, allegedly had under-the-table [dealings](#) with an ex-attorney general who is now in jail for embezzlement. Another new judge is a close Bukele advisor who recently [defended](#) the military's decision to refuse court orders to release records on the 1981 El Mozote massacre of civilians, a case currently in its opening phases.

Bukele celebrated the judicial takeover, tweeting he was “proud” of his party’s parliamentary group and predicting a “great future” for El Salvador. More ominously, he told a national TV audience in reference to the ousted officials: “If I were a dictator, I would have shot them all.” With the top court and prosecutor’s office under Bukele’s control, there are practically no obstacles to stop future power grabs. New Ideas party lawmakers announced there would be additional purges via the legislature, and Bukele added on Twitter, “The people didn’t elect us to negotiate. Everyone will have to go.” Bukele could also take advantage of lax oversight to reform the constitution to eliminate term limits and put electoral administration in the hands of his party, entrenching himself for the long haul.

Repression of the opposition could also escalate. Delgado, the new attorney general, is already calling for a review of the International Commission Against Impunity in El Salvador, backed by the Organization of American States (OAS), which could give Bukele a stronger hand to weaponize corruption investigations against his enemies. There are fears that journalists and civil society activists who have been critical of the president could become the next targets for prosecutors. It wouldn’t be unprecedented for independent media to come under fire. Bukele has repeatedly used social media to attack the press, resulting in waves of harassment from government officials and the president’s followers. Local journalists who have written critically about the president have been the subject of investigations.

In its swift condemnation of Bukele’s power grab, the Biden administration was joined by the European Union, the OAS, and U.N. Secretary-General António Guterres. U.S. Vice President Kamala Harris and Secretary of State Antony Blinken expressed deep concern over the judicial removals, the latter in a one-on-one phone call with Bukele on May 2. Sens. Bob Menendez and Patrick Leahy demanded the Biden administration make U.S. funding for the Salvadoran government conditional on respect for democracy, judicial independence, and the rule of law.

For now, jeopardizing aid dollars is a risk Bukele seems prepared to take. Despite El Salvador’s ballooning external debt—and the fact that the country is in the midst of negotiating a \$1 billion aid package from the International Monetary Fund and Inter-American Development Bank—the 39-year-old president showed no signs of backing down. Addressing the international community, Bukele tweeted: “We want to work together ... but with all due respect, we’re cleaning our house ... and that’s none of your business.”

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All this is bad news not just for El Salvador but for the region at large. In the early 2000s, much of Central America was making progress toward building stronger, more independent justice systems, which are critical for holding entrenched elites to account. But then political heavyweights unaccustomed to finding themselves on the receiving end of justice mounted a powerful backlash.

Nicaragua’s top court was the first to fall, predating the recent wave of attacks on the independent courts. Even before Daniel Ortega returned to the presidency in 2007, his Sandinista National Liberation Front party began taking over the country’s judiciary. Then, Nicaragua’s top court did away with presidential term limits, allowing Ortega to repeatedly win reelection and remain in power to the present day. After mass protests against the Ortega family dynasty in 2018, the courts sentenced protesters to prison by the hundreds without due process guarantees.

Honduras came next. Juan Orlando Hernández’s National Party used its control of the National Congress to dismiss and install a friendly majority on the country’s Supreme Court in 2012. When Hernández later became president in 2014, the court abolished a single-term limit, allowing Hernández to cling to power in a 2017 reelection widely considered fraudulent. Since then, the top court has continued to serve the ruling party’s interests. After the government shut down the OAS-backed Mission to Support the Fight Against Corruption and Impunity in Honduras in 2020, the court has backtracked, notably throwing out a key corruption charge the mission had helped land against a powerful former first lady.

Guatemala’s top court is a much more recent victim of the wave of attacks on judicial independence. After the shutdown of the United Nations-backed International Commission Against Impunity in Guatemala in 2019, the country’s Constitutional Court became the last bastion in the fight to protect the rule of law. It blocked proposals to allow judges to negotiate light corruption sentences directly with the accused and sought to stop a vast conspiracy by criminal groups to rig the process for selecting judges for the Supreme Court and Court of Appeals. But now the court’s days of independence are numbered; in a move viewed as a harbinger of things to come, a standout independent judge, Gloria Porras, was barred last month from returning to the bench.

Since taking office, the Biden administration has struck the right tone in calling for a renewed commitment to the rule of law in the region. But stern warnings aren’t enough. Bukele’s open mockery of his international critics following the recent power grab makes that clear. So does the slow-motion takeover of Guatemala’s Constitutional Court, which has proceeded despite messages of concern from Washington. Now, the time has come for the administration to deploy the full range of tools at its disposal to push back against attacks on the rule of law. That means withholding U.S. assistance to justice and security institutions, sanctioning those individuals

behind unconstitutional dismissals, and suspending international financing. If action doesn't come soon, there won't be any independent courts in Central America left to defend.

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